

Senate File 205 - Introduced

SENATE FILE 205
BY COMMITTEE ON ECONOMIC
GROWTH

(SUCCESSOR TO SF 122)

A BILL FOR

1 An Act relating to the targeted jobs withholding credit pilot
2 project and including applicability provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 403.19A, subsection 1, paragraphs c, e,
2 f, and g, Code 2013, are amended to read as follows:

3 c. "*Employer*" means a business creating or retaining
4 targeted jobs in ~~an urban renewal area of~~ a pilot project city
5 pursuant to a withholding agreement.

6 e. "*Qualifying investment*" means a capital investment
7 in real property including the purchase price of land and
8 existing buildings, site preparation, building construction,
9 and long-term lease costs. "*Qualifying investment*" also means a
10 capital investment in depreciable assets. For purposes of this
11 paragraph, "*long-term lease costs*" means those costs incurred or
12 expected to be incurred under a lease during the duration of a
13 withholding agreement.

14 f. "*Targeted job*" means a job in a business which is or
15 will be located in ~~an urban renewal area of~~ a pilot project
16 city that pays a wage at least equal to the countywide average
17 wage. "*Targeted job*" includes new or retained jobs from Iowa
18 business expansions or retentions within the city limits of the
19 pilot project city and those jobs resulting from established
20 out-of-state businesses, as defined by the economic development
21 authority, moving to or expanding in Iowa.

22 g. "*Withholding agreement*" means the agreement between a
23 pilot project city, the economic development authority, and
24 an employer concerning the targeted jobs withholding credit
25 authorized in subsection 3.

26 Sec. 2. Section 403.19A, subsection 1, Code 2013, is amended
27 by adding the following new paragraph:

28 NEW PARAGRAPH. *Of.* "*Retained job*" means a full-time
29 equivalent position in existence at the time an employer enters
30 into a withholding agreement that remains continuously filled
31 or authorized to be filled as soon as possible and that is at
32 risk of elimination or relocation to an out-of-state location
33 if the project for which the employer receives assistance under
34 the withholding agreement does not proceed.

35 Sec. 3. Section 403.19A, subsection 3, paragraphs a, b, c,

1 and f, Code 2013, are amended to read as follows:

2 a. A pilot project city may provide by ordinance resolution
 3 for the deposit into a designated ~~account in the special~~
 4 withholding project fund described in section 403.19,
 5 ~~subsection 2,~~ of the targeted jobs withholding credit described
 6 in this section. The targeted jobs withholding credit shall
 7 be based upon the wages paid to employees pursuant to a
 8 withholding agreement.

9 b. An amount equal to three percent of the gross wages paid
 10 by an employer to each employee under a withholding agreement
 11 shall be credited from the payment made by the employer
 12 pursuant to section 422.16. If the amount of the withholding
 13 by the employer is less than three percent of the gross wages
 14 paid to the employees covered by the withholding agreement,
 15 the employer shall receive a credit against other withholding
 16 taxes due by the employer or may carry the credit forward for
 17 up to ten years or until depleted, whichever is the earlier.
 18 The employer shall remit the amount of the credit quarterly,
 19 in the same manner as withholding payments are reported to
 20 the department of revenue, to the pilot project city to be
 21 allocated to and when collected paid into a designated ~~account~~
 22 ~~in the special~~ withholding project fund for the urban renewal
 23 ~~area in which the targeted jobs are located project.~~ All
 24 amounts so deposited shall be used or pledged by the pilot
 25 project city for ~~an urban renewal~~ a project related to the
 26 employer pursuant to the withholding agreement.

27 c. (1) The pilot project city and the economic development
 28 authority shall enter into a withholding agreement with each
 29 employer concerning the targeted jobs withholding credit. The
 30 withholding agreement shall provide for the total amount of
 31 withholding credits awarded, as negotiated by the economic
 32 development authority, the pilot project city, and the
 33 employer. An agreement shall not provide for an amount of
 34 withholding credits that exceeds the amount of the qualifying
 35 investment made in the project. An agreement shall not be

1 entered into ~~by a pilot project city~~ with a business currently
 2 located in this state unless the business either creates or
 3 retains ten new jobs or makes a qualifying investment of at
 4 least five hundred thousand dollars within the ~~urban renewal~~
 5 area pilot project city. The withholding agreement may
 6 have a term of years negotiated by the economic development
 7 authority, the pilot project city, and the employer, of up
 8 to ten years. A withholding agreement specifying a terms of
 9 years or a total amount of withholding credits shall terminate
 10 upon the expiration of the term of years specified in the
 11 agreement or upon the award of the total amount of withholding
 12 credits specified in the agreement, whichever occurs first. An
 13 employer shall not be obligated to enter into a withholding
 14 agreement. An agreement shall not be entered into with an
 15 employer not already located in a pilot project city when
 16 another Iowa community is competing for the same project and
 17 both the pilot project city and the other Iowa community are
 18 seeking assistance from the authority.

19 (2) The pilot project city and the economic development
 20 authority shall not enter into a withholding agreement after
 21 June 30, ~~2013~~ 2018.

22 (3) The employer, in conjunction with the pilot project
 23 city, shall provide on an annual basis to the economic
 24 development authority information documenting the total
 25 amount of payments and receipts under a withholding agreement,
 26 including all agreements with an employer to suspend, abate,
 27 exempt, rebate, refund, or reimburse property taxes, to provide
 28 a grant for property taxes paid or a grant not related to
 29 property taxes, or to make a direct payment of taxes, with
 30 moneys in the ~~special~~ withholding project fund. The economic
 31 development authority shall verify the information provided ~~by~~
 32 ~~the pilot project city~~ and determine whether the pilot project
 33 city and the employer are in compliance with this section and
 34 the rules adopted by the economic development authority to
 35 implement this section.

1 (4) The economic development authority board, on behalf of
 2 the authority, shall have the authority to approve or deny a
 3 withholding agreement ~~and~~ according to the provisions of this
 4 section. Each withholding agreement, and the total amount of
 5 withholding credits allowed under the withholding agreement,
 6 shall be approved by the economic development authority board
 7 after taking into account the incentives or assistance received
 8 by or to be received by the employer under other economic
 9 development programs. The economic development authority
 10 board shall only deny an agreement if the agreement fails to
 11 meet the requirements of this paragraph "c" or the local match
 12 requirements in paragraph "j", or if an employer is not in good
 13 standing as to prior or existing agreements with the economic
 14 development authority. The authority shall have the authority
 15 to negotiate a withholding agreement and may suggest changes to
 16 ~~an~~ any of the terms of the agreement.

17 f. If the economic development authority, following an
 18 eighteen-month performance period beginning on the date the
 19 withholding agreement is approved by the authority board,
 20 determines that the employer ceases to meet the requirements
 21 of the withholding agreement relating to retaining jobs, if
 22 applicable, the agreement shall be terminated by the economic
 23 development authority and the pilot project city and any
 24 withholding credits for the benefit of the employer shall
 25 cease. ~~However, in regard to the number of jobs that are to~~
 26 ~~be created or retained, if the employer has met the number of~~
 27 ~~jobs to be created or retained pursuant to the withholding~~
 28 ~~agreement and subsequently the number of jobs falls below the~~
 29 ~~required level, the employer shall not be considered as not~~
 30 ~~meeting the job requirement until eighteen months after the~~
 31 ~~date of the decrease in the number of jobs created or retained.~~
 32 If the economic development authority, following a three-year
 33 performance period beginning on the date the withholding
 34 agreement is approved by the authority board, determines
 35 that the employer has not or is incapable of meeting the

1 requirements of the withholding agreement relating to creating
 2 jobs, if applicable, or the requirement of the withholding
 3 agreement relating to the qualifying investment prior to the
 4 end of the withholding agreement, the economic development
 5 authority may reduce the future benefits to the employer under
 6 the agreement or negotiate with the other parties to terminate
 7 the agreement early. Notice shall be provided promptly by
 8 the pilot project city to the department of revenue following
 9 termination of a withholding agreement.

10 Sec. 4. Section 403.19A, subsection 3, paragraph d,
 11 subparagraph (1), Code 2013, is amended to read as follows:

12 (1) A copy of the adopted local development agreement
 13 ~~plan of~~ between the pilot project city and the employer
 14 that outlines local incentives or assistance for the project
 15 using urban renewal or urban revitalization incentives, if
 16 applicable.

17 Sec. 5. Section 403.19A, subsection 3, Code 2013, is amended
 18 by adding the following new paragraph:

19 NEW PARAGRAPH. *Of.* Pursuant to rules adopted by the
 20 economic development authority, the pilot project city
 21 shall provide on an annual basis to the economic development
 22 authority information documenting the compliance of each
 23 employer with each requirement of the withholding agreement,
 24 including but not limited to the number of jobs created or
 25 retained and the amount of investment made by the employer.
 26 The economic development authority shall, in response to
 27 receiving such information from the pilot project city, assess
 28 the level of compliance by each employer and provide to the
 29 pilot project city recommendations for either maintaining
 30 employer compliance with the withholding agreement or
 31 terminating the agreement for noncompliance under paragraph
 32 "f". The economic development authority shall also provide each
 33 such assessment and recommendation report to the department of
 34 revenue.

35 Sec. 6. APPLICABILITY.

1 1. Except as provided in subsection 2, this Act applies to
 2 withholding agreements entered into on or after the effective
 3 date of this Act and withholding agreements entered into by
 4 a pilot project city prior to the effective date of this Act
 5 shall be governed by section 403.19A, Code 2013.

6 2. The section of this Act enacting section 403.19A,
 7 subsection 3, paragraph "Of", applies to withholding agreements
 8 entered into prior to the effective date of this Act or entered
 9 into on or after the effective date of this Act.

10 EXPLANATION

11 This bill modifies the targeted jobs withholding tax credit
 12 program, which is a pilot program enacted in 2006 to allow
 13 the diversion of withholding funds paid by an employer to be
 14 matched by a designated pilot project city to create economic
 15 incentives that can be directed toward businesses located
 16 within urban renewal areas in the city pursuant to the terms of
 17 a withholding agreement with a business and after approval of
 18 the agreement by the Iowa economic development authority.

19 The bill removes the requirement that an employer that is a
 20 party to a withholding agreement with a pilot project city be
 21 located in an urban renewal area. The bill removes a similar
 22 requirement relating to the definition of targeted job. The
 23 bill makes corresponding changes to Code section 403.19A to
 24 reflect the removal of the urban renewal area requirement,
 25 including providing that the targeted jobs withholding credits
 26 be deposited in a withholding project fund rather than the
 27 special fund established for urban renewal purposes.

28 The bill allows a pilot project city to provide for the
 29 deposit of the amount of the targeted jobs withholding credit
 30 into the city's withholding project fund by resolution, rather
 31 than by ordinance.

32 The bill provides a definition of long-term lease costs as
 33 part of the definition of qualifying investment under the pilot
 34 program and provides a definition of retained job.

35 Under current law, a pilot project city may not enter into a

1 withholding agreement after June 30, 2013. The bill adds the
2 economic development authority to the list of required parties
3 to a withholding agreement and prohibits a pilot project city
4 and the economic development authority from entering into a
5 withholding agreement after June 30, 2018. The bill specifies
6 subject areas of a withholding agreement that may be negotiated
7 by the parties and provides that a withholding agreement that
8 specifies a term of years or a total amount of withholding
9 credits shall terminate upon expiration of the term of years
10 or upon the award of the total amount of withholding credits,
11 whichever occurs first.

12 The bill requires the reporting of certain withholding
13 agreement payment and receipt information by the employer,
14 in conjunction with the pilot project city, and requires the
15 economic development authority to verify such information and
16 determine whether the pilot project city and the employer are
17 in compliance with Code section 403.19A and rules adopted to
18 implement that Code section.

19 The bill provides that the economic development authority
20 board approves or denies a withholding agreement on behalf of
21 the authority and specifies considerations to be made by the
22 board in deciding whether to approve or deny a withholding
23 agreement.

24 The bill establishes an 18-month performance period
25 following which the economic development authority determines
26 compliance with the job retention requirements of the
27 withholding agreement, if applicable, establishes a three-year
28 performance period following which the authority determines
29 compliance with the job creation and investment requirements
30 of the withholding agreement, and specifies the actions to
31 be taken by the authority and the pilot project city after a
32 determination of noncompliance.

33 Except as otherwise provided in the bill, the bill applies
34 to withholding agreements entered into by a pilot project city
35 on or after the effective date of the bill. The bill provides

1 that withholding agreements entered into by a pilot project
2 city prior to the effective date of the bill shall be governed
3 by Code section 403.19A, Code 2013. However, the section of
4 the bill enacting Code section 403.19A(3)(0f), relating to
5 compliance reporting, applies to withholding agreements entered
6 into prior to, on, or after the effective date of the bill.